

Serial No.: 09/597,318

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REMARKS

Claims 8 and 9 stand rejected under 35 U.S.C. §102(c) over Baur ('828). However, claim 8 has been amended to include the limitation of a uniform and smooth cylindrical plastic sleeve, a feature which is neither taught nor suggested by Baur.

Claims 8, 9 and 13-14 stand rejected under 35 U.S.C. §103(a) over Arth, Jr. ('883). However, claim 8 has also been amended to include the limitation of an open lower end terminating in a non-flared circular edge, a feature of which is neither nor suggested by Arth, Jr. With regard to claims 13-14, claim 13 has been amended to include that the resilient portion is an attached piece. With respect to claim 14, although this was included in the rejection under 35 U.S.C. §103(a) over Arth, Jr., it is noted that the flexible resilient strap 12 is not attached to the sleeve, but rather, is attached to the post.

Claim 11 stands rejected under 35 U.S.C. §103(a) over Arth, Jr. or Baur, and further in view of Beatty ('756). The Examiner concedes that neither Arth nor Baur include the limitation of an agent to provide a durable color throughout, but contends that it would have been obvious to import the teachings of Beatty to address this deficiency. Applicant respectfully disagrees. There is no teaching or suggestion in Arth or Baur to address such a purpose and, indeed, Baur is buried within a precast concrete panel, such that color would not be an issue.

Claims 8-9 and 11 stand rejected under 35 U.S.C. §103(a) over Beatty in view of Arth, Jr. The Examiner concedes that Beatty does not define a closed upper end having a generally hemispherical configuration, but contends that it would be obvious to include such a feature. Applicant respectfully disagrees. The sheets of Beatty are meant to cover wooden posts having flat surfaces presumably cut by a saw. The idea is a tight fit between the cover and these manually-created surfaces. To include a hemispherical device would mean that the top of a wooden post would need to be rounded off, a procedure which is not disclosed and is impractical.

Claims 10-12 stand rejected under 35 U.S.C. §103(a) over Arth, Jr. or Baur, in view of Bies ('371). The Examiner concedes that the materials of claims 10-12 are not taught by Arth, Jr. or Baur or Beatty, but contends that the teachings of Bies would make such additions obvious. Applicant respectfully disagrees. For one thing, the limitations of claims 10-12 have not only to do with the materials that the sleeve is made from, but agents to provide a durable coloring (claim 11) and an agent

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resist ultraviolet deterioration (claim 12). As there is no teaching or suggestion from the prior art in support of such combinations, *prima facie* obviousness has not been established.

Claims 10 and 12 stand rejected under 35 U.S.C. §103(a) over Beatty in view of Arth, Jr. and further in view of Bies "for the same reasons set forth above rejection [sic]." Given that different references are involved, Applicant respectfully requests that the Examiner be specific with respect to this rejection, or else it will be presumed that *prima facie* obviousness has not been established.

Based upon the foregoing amendments and comments, Applicant believes all pending claims are in condition for allowance. Questions regarding this application may be directed to the undersigned attorney by telephone, facsimile or electronic mail.

Respectfully submitted,

By:

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